

IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

JASON DORTON,

No. C-98-2003 MMC

Petitioner,

v.

KATHLEEN DICKINSON,

Respondent

**ORDER RE: PETITIONER'S MOTION TO
REINSTATE HABEAS CORPUS
PETITION; VACATING NOVEMBER 20,
2009 HEARING; SETTING BRIEFING
SCHEDULE**

Before the Court is petitioner Jason Dorton's Motion to Reinstate Habeas Corpus Petition and Relate or Consolidate Cases, filed October 14, 2009. Respondent Kathleen Dickinson has filed a response,¹ to which petitioner has replied. Having read and considered the above-referenced filings, the Court rules as follows.

Petitioner's motion to reinstate is based on the August 25, 2009 decision announced in Phelps v. Alameida, 569 F.3d 1120 (9th Cir. 2009). The respondent in Phelps has recently filed with the United States Supreme Court a petition for certiorari, by which petition he seeks review of the August 25, 2009 decision. Respondent herein, in her response to the motion to reinstate, requests the Court defer ruling on the instant motion until proceedings on the petition for certiorari have concluded. As set forth below, the Court

¹Petitioner's Notice to Substitute Respondent, filed October 14, 2009, is hereby APPROVED.

1 finds the request reasonable.

2 By order filed October 19, 2009, the Court stayed further proceedings in Phelps,
3 pending resolution of the above-referenced petition for certiorari. Because the instant
4 motion is dependent on the continued viability of Phelps, the Court likewise finds it
5 appropriate to defer consideration of the instant motion to reinstate until resolution of the
6 petition for certiorari. See Landis v. North America Co., 299 U.S. 248, 254 (1936) (holding
7 "power to stay proceedings is incidental to the power inherent in every court to control the
8 disposition of the causes on its docket with economy of time and effort for itself, for
9 counsel, and for litigants").

10 Accordingly, the November 20, 2009 hearing on the instant motion is hereby
11 VACATED. Respondent shall file her opposition or other response to the merits of the
12 motion to reinstate no later than 14 days after resolution of the petition for certiorari,² and
13 petitioner shall file any reply thereto no later than 7 days after the filing of respondent's
14 opposition or response, at which time the Court, unless the parties are otherwise advised,
15 will take the motion to reinstate under submission.

16 **IT IS SO ORDERED.**

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18 Dated: November 13, 2009
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MAXINE M. CHESNEY
United States District Judge

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28 ²The Court has been advised that the Supreme Court's decision on the petition for
certiorari is expected to be issued no later than December 2009. (See Mot. to Stay, filed
September 25, 2009, Phelps v. Alameida, 98-2002 MMC, at 7:17-18.)